THE MADRAS REVENUE RECOVERY ACT, 1864.

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MADRAS ACT No. II OF 1864. [1]

[THE MADRAS REVEUNE RECOVERY ACT, 1864.] [2]

[*20th June 1864.*]

An Act to consolidate the Laws for the Recovery of Arrears of Revenue in the Madras Presidency.

Preamble. WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified ; It is hereby enacted as follows :—

Interpretation clause. Landholder. **1.** The term " landholder " as used in this Act, shall be taken to comprise the following persons :—

All persons holding under a Sanad-i-Milkiyat-i-istimrar, all other Zamindars, Shrotriyamdars, Jagirdars, Inamdars, and all persons farming the Land Revenue under [3] [the State Government]. All holders of land under Ryotwar settlements, or in any way subject to the payment of revenue direct to [3] [the State Government].

Public revenue. Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to [3] [the State Government] on account of water supplied for irrigation.

Security for revenue. **2.** The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue.

Landholder when and to whom to pay kist. **3.** Every landholder shall pay to the Collector, or other officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the kistbandi or other engagement, and where no particular

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[1] Short title, " The Madras Revenue Recovery Act, 1864 " was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa country in the Godavari District—*see Fort St. George Gazette*, 1879, p. 723, and *Gazette of India*, 1879, Pt. I, p. 630.

It has been declared, by notification under section 3 (*a*) of the Scheduled Districts Act ,1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 666 and *Gazette of India*, 1898, Pt. I, p. 869. It has also been declared by a notification under the same section to be in force in the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari District—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid.*, p. 630.

This Act is not in force in the taluks of Nugur, Albaka and Cherla, *vide* s. 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (Central Regulation I of 1909).

[2] The Act was temporarily amended by the Madras Revenue Recovery (Temporary Amendment) Act 1922 (Madras Act IV of 1922).

[3] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

day is fixed, then within the time when the payment falls due according to local usage : Provided that, except where property is held under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, it shall be lawful for the Board of Revenue, by notification published in the District Gazette, to alter and fix, from time to time, the amount of the several kists or instalments, and the dates at which they shall respectively become payable. Board of Revenue may alter amounts and dates of payment.

4. When the whole or portion of a kist shall not be so paid, the amount of the kist or of its unpaid portion shall be deemed to be an arrear of revenue. Arrear of revenue.

5. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's movable and immovable property, or by execution against the person of the defaulter in manner hereinafter provided. Arrear of revenue how recovered.

6. If the defaulter hold under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sanad. In the case of other defaulters, the Collector, or other officer empowered by the Collector in that behalf, may at his discretion, proceed to realize the arrear by the sale of either the movable or immovable property of the defaulter, or of both. Terms of Sanad-i-Milkiyat-i-istimrar to be observed.

7. Arrears of revenue shall bear interest at the rate of 6 per cent per annum. Interest on arrears.

8. In the seizure and sale of movable property for arrears of revenue, the following rules shall be observed :— Rules for seizure and sale of movable property.

First.—The Collector, or other officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the name of the defaulter, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under section 53, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where it may be lodged or kept. Demand in writing. Defaulter to be served with a copy.

Second.—The writing shall further setforth that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, be previously discharged. Writing to state that the distrained property, will be sold.

Service when defaulter is absent.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence, or on the premises where the property may have been distrained, before the expiration of the third day, calculating from the day of the distress.

Procedure when defaulter neglects to pay after notice.

9. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector or other officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property distrained to the nearest public officer empowered to sell distrained property, under Act VII of 1839, in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

On tender of arrear and expenses prior to sale, distress withdrawn.

10. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

Distrained crops how dealt with.

11. The distrainer attaching the crops or ungathered products of the land belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

Tenant may pay arrears and terminate attachment.

Distrained cattle or goods not to be used.

12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained ; he shall provide the necessary food for the cattle or livestock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Recovery of loss from neglect in respect of distrained property.

13. Where property distrained may be stolen or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by

the Collector from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified.

Distress to be proportionate to the arrear.

14. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time of distress.

15. Distress shall be made after sunrise and before sunset and not otherwise.

Penalty for fraudulent conveyance of property to prevent distress.

16. Where a defaulter may make a fraudulent conveyance of property to prevent the distress for arrears, any Civil Court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.

Central Act XLV of 1860.

Claims to property distrained and sold.

17. Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, costs, and damages, according to the circumstances of the case. But claims to crops upon the ground or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crop or product may have been grown.

Revenue to be the first charge.

Penalty for forcibly or clandestinely taking away distrained property.

18. Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

Central Act XLV of 1860.

What places distrainer may force open.

19. It shall be lawful for the distrainer to force open any stable, cowhouse, granary, godown, out-house, or other building, and he may also enter any dwelling house the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein ; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women, except as hereinafter provided.

Powers of distrainer to force open doors in the presence of a police officer.

20. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police station. On such representation, the officer in charge of the said station shall send a police officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the police officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

Punishment for unlawful entry.

21. Persons entering the apartments of women, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

Proclamation of time of sale, and of property to be sold.

22. The public officer, empowered under Act VII of 1839 to sell distrained property, shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector, or other officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Sale how conducted.

23. At the appointed time, the property shall be put up in one or more lots, as the said officer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Payment on purchase of distrained property.

24. The property shall be paid for in ready money at the time of the sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to

carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made. Re-sale in case of default.

25. Before a Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of the defaulter, or buildings thereon, he shall cause a writen demand to be served upon the defaulter, specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached. Demand to be served prior to attachment of land. Mode of service.

26. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner. Procedure when defaulter neglects to pay.

27. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette. Mode of attachment.

28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment to assume the management of the property attached. In such case he shall appoint an agent with a proper establishment of officers to manage the property, and shall give the agent certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property; provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an Management of attached property.

When Revenue officer to take charge.

agent, it shall be committed to the care of such Revenue officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to agents.

Notice of assumption of management.

29. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in section 25, and shall be notified by public proclamation on the land, and by publication in the District Gazette.

Duties of agent.

30. It shall be the duty of the agent, during the continuance of management under section 28, to collect the rents and profits due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist. The agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance, to the Collector, or other officer empowered by the Collector in that behalf, monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expense without fee.

Liability of agent to suit or prosecution.

31. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him as they would have had against the defaulter if the act were done by the defaulter.

Effect of existing agreements between landholder and tenants.

32. All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bona fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, shall be null and void against the Collector, if he shall so declare ; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

Payments by tenants.

33. All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

Settlement on withdrawal of attachment.

34. All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of six per cent per annum, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

Persons interested in land may release it from attachment.

35. It shall be lawful for any person claiming an interest in land which has been, or is about to be, attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, [1] [or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter], shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made. [2] [Such sums when paid by a *bona fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter.]

Procedure in sale of immovable property.

36. In the sale of immovable property under this Act the following rules shall be observed :—

Public auction.

First.—The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the district in which the property is situated, or other officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the fasli year.

Notification one month before sale.

Second.—Previous to the sale the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the district, specifying the name of the defaulter; the position and extent of land and of his buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's office and in the Taluk cutcherry, in the nearest police station-house, and on some conspicuous part of the land.

Deposit by purchaser.

Third.—A sum of money equal to fifteen per cent of the price of the land shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the

[1] These words were substituted for the words "shall constitute a debt from the defaulter to him and" by s. 1 of Mad. Act I of 1897.

[2] These words were added by *ibid.*

Collector in that behalf, at the time of the purchase, and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Re-sale in default of payment.

Fourth.—Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be resold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Agents to name principals.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and, in the latter case, to deposit a written authority signed by their principals. If such requisition be not complied with, their bids may be rejected.

Certain provisions of section 36 not to apply to cases of purchase by Government.

[1] [**36-A.** The provisions of the Third and Fourth clauses of section 36 shall not apply to cases where immovable property sold under this Act is purchased by the Government.]

Tender of arrears up to sunset on day before sale.

37. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate or in taking the steps necessary for sale, and thereupon the sale shall be stayed :

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums [2] [paid under this or the next succeeding section] by any tenant, or *bona fide* mortgagee, or other incumbrancer [3] [or any person *bona fide* claiming an interest in the estate adverse to the defaulter] may be recovered in the manner provided in section 35.

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[1] This section was inserted by s. 2 of the Madras Revenue Recovery and City Land Revenue (Amendment) Act, 1937 (Madras Act XIV of 1937).

The Madras Revenue Recovery Act, 1864, should in its application to the State of Madras be read and construed as if section 36-A had formed part of that Act from its commencement—*vide* section 4 (1), *ibid.* *See* also section 4 (3), *ibid.*

[2] These words were substituted for the words "so paid" by s. 2 of Mad. Act I of 1909.

[3] These words were added by s. 2 of Mad. Act I of 1897.

[1] [37-A. (1) Any person owning or claiming an interest in immovable property sold under this Act may, at any time within thirty days from the date of sale, deposit in the treasury of the taluk in which the immovable property is situated— Application to set aside sale of immovable property on deposit.

(*a*) a sum equal to five *per centum* of the purchase money.

(*b*) a sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears, and may apply to the Collector to set aside the sale.

(2) If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited, together with the five *per centum* deposited by the applicant :

Provided that if more persons than one have made deposit and application under this section, the application of the first depositor to the officer authorized to set aside the sale shall be accepted.

(3) If a person applies under section 38 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application under this section.]

[2] [38. (1) At any time within thirty days from the date of the sale of immovable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it ; but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularlity or mistake unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof. Application to set aside sale.

(2) If the application be allowed, the Collector shall set aside the sale and may direct a fresh one.

(3) On the expiration of thirty days from the date of the sale, [3] [if no application to have the sale set aside is made under section 37-A or under clause (1) of this section] or if such application has been made and rejected, the Collector shall make an order confirming the sale ; provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale. Order confirming or setting aside sale.

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[1] This section was inserted by s. 3 of Mad. Act I of 1909.

[2] This section was substituted by s. 1 of Mad. Act III of 1884.

[3] These words were substituted for the words " if no such application is made " by s. 4 of Mad. Act I of 1909.

Refund of deposit or purchase-money when sale set aside.

(4) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase-money, as the case may be, shall be returned to the purchaser.

On confirmation of sale purchaser's name to be registered.

(5) After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

Certificate of sale.

Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals, where it may be necessary to prove the same; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.]

Proclamation of sale.

39. When lands may be purchased at public sale the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages, in which the land sold may be situated, in the cutcherry of the taluk, in the head cutcherry of the district, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession.

40. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 38, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Contracts and payments binding on purchaser.

41. All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in sections 32 and 33 of this Act.

Sale to be free of all incumbrances.

Disposal of surplus.

42. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest and the expenses of attachment and sale and other costs due in respect to such arrears, it shall be paid over to the defaulter unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Recovery of arrears due to defaulter on day of sale.

43. Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Sale of land for arrears.

44. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue; provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management, and sale.

Apportionment of assessment on sub-division.

45. Where only a part of a landed estate held under a Sanad-i-Milkiyat-i-istimrar, or otherwise subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following :—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

Production of accounts.

To this end the Collector shall have power to demand from landholders and from the karnams of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and karnams shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand so as to prevent the assessment being fixed on such divided portions of land, the Collector shall proceed to sell the entire estate.

Effect of non-production.

46. [*Confirmation of apportionment by Board. Rep. by the Madras Decentralization Act*, 1914 (*Mad. Act VIII of* 1914).]

Sale may be postponed on tender of security.

47. When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter or against his security, or both

Powers of arrest in case of wilful or fraudulent non-payment of arrears.

48. When arrears of revenue, with interest and other charges as aforesaid cannot be liquidated by the sale of the property of the defaulter, or of his surety, and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter, or his surety, not being a female, as hereinafter mentioned; but no person shall be imprisoned on account of an arrear of revenue for a longer period than two years, or for a longer period than six months, if the arrear does not exceed

Period of imprisonment.

Debt not extinguished.

Rs. 500, or for a longer period than three months, if the arrear does not exceed Rs. 50; provided that such imprisonment shall not extinguish the debt due to [1] [the State Government] by the defaulter, or his surety.

Procedure in case of arrest.

49. The Collector shall issue his warrant for the arrest of the defaulter, or his surety, or both, not being females, which shall specify his or their name, the amount of revenue due and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The officer charged with the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both and convey him or them to the district gaol, and deliver the warrant to the gaoler, which shall be a sufficient authority to him to receive the prisoner or prisoners. A copy of such warrant shall be retained by the gaoler, who shall forthwith despatch the original to the officer in charge of the gaol.

Mode of enforcing payment by sureties.

50. All the remedies prescribed by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principal; so, nevertheless, that no more than the total sum in arrears, and interest with costs and charges, shall be realized from both.

Removal of crops may be prevented where revenue is payable in kind.

51. When land-revenue is payable in kind, it shall be lawful for the Collector or other officer empowered by the Collector in that behalf, to prevent the removal of the crop from the land until a division has been made, and the portion which belongs to [1] [the State Government] has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

Similar process in case of other species of revenue, advances, fees, cesses, etc.

52. All arrears of revenue other than land-revenue due to [1] [the State Government], all advances made by [1] [the State Government] for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties, and all cesses lawfully imposed upon land [2] [and all sums due to the [3] (State) Government, including compensation for any loss or damage sustained by them in consequence of a breach of contract], may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were inserted by section 2 of the Madras Revenue Recovery (Amendment) Act, 1939 (Madras Act XV of 1939).

[3] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Process servers to be paid batta.

53. Persons employed in serving notices, or in other process under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Board of Revenue with the sanction of [1] [the State Government], and published in the District Gazette.

Interest and charges recoverable as arrears.

54. The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Who to bear expense of countermanded sale.

Recovery thereof.

55. Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Receipts for payment of revenue.

56. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector or other officer empowered by the Collector in that behalf; such receipt shall state the name of the person making the payment and the subject-matter in respect of which it is paid, and, in case of land-revenue, shall describe the land on which the assessment is due and the names of the persons entered in respect thereof in the settlement account.

Procedure where defaulter or surety resides out of district.

Effect of Collector's application.

Saving of right to sue applicant.

57. Where a defaulter or his surety may reside or hold property out of the district wherein default shall have been made, the Collector of the district in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose district such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own district. Every such application shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application, or any person acting under his authority; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt it genuineness; provided always, that nothing herein contained shall affect the right of any party to sue in his own district the Collector who made the application.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[1][A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of Deputy Tahsildar.]

Cognizance of questions relating to rate of revenue.

58. No Court of Civil Judicature shall have authority to take into consideration or decide any question as to rate of land-revenue payable to [2][the State Government], or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

Suits by persons aggrieved by proceedings.

Limitation.

59. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress ; provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Survival of suits against Collector.

Liability for predecessor's acts.

60. No suit brought against any Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act, shall abate by reason of the departure from his district of the Collector against whom such suit shall have been brought ; but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section ; provided that no Collector shall be personally liable for any official act of his predecessor.

Regulation V of 1822 not to apply to sales.

61. Regulation V of 1822[3] shall not be applicable to sales of property under this Act.

Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears.

62. Regulation XXVIII of 1802[3] and Regulations I and II of 1803 shall be inoperative as respects arrears of revenue recoverable under this Act.

Saving of Regulations V of 1804 and X of 1831.

63. Nothing in this Act shall be held to bar the operation of the provisions of Regulation V of 1804[4] and of Regulation X of 1831, in respect to the sale of lands of minors and other disqualified landholders.

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[1] This paragraph was added by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Repealed by Madras Act VIII of 1865, which has itself been repealed by Madras Act I of 1908.

[4] Repealed except as regards the Scheduled Districts by Madras Act I of 1902.

64. Nothing in this Act shall apply to the collection of land-revenue within the limits of the Town of Madras, as defined by section 12, Regulation II of 1802[1] of the Madras Code. Scope of Act.

65. [*Repeal of certain enactments.*] *Repealed by Central Act XII of* 1873.

66. [*Commencement of Act.*] *Repealed by Central Act XII of* 1873.

MADRAS ACT No. I OF 1865.[2]

[THE MADRAS DISTRICT LIMITS ACT, 1865.]

[*12th December 1864*; *5th January 1865.*]

An Act to provide for the alteration of the * * * [3] limits of Districts or Zilas in the Madras Presidency.

1. It shall be lawful for the [4] [State Government] [5][* * * * * * * *], from time to time, to alter the limits of existing districts or zilas [6] [* * * * * * * * * * *]. Power to alter limits of districts or zilas.

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[1] The whole Regulation has been repealed by the Madras Civil Courts Act, 1873 (Central Act III of 1873).

[2] Short title, "The Madras District Limits Act, 1865" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The whole of the Act, except so much as empowered by the Governor in Council to alter the limits of existing districts, was repealed by the Madras Civil Courts Act, 1873 (III of 1873). The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act is in force in the rest of the Scheduled Areas also.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[3] The words "Stations of Zillah Courts and" were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Third Schedule, Part III.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "of Fort St. George" were omitted by the Adaptation Order of 1937.

[6] The words "in any part of the Provinces subject to his control" were omitted by *ibid*.